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Federal Communications Commission
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

The Honorable Charles S. Robb
U. S. Senator
Russell Senate Office Building
First and Constitution Avenue, NE, Room 154
Washington, DC 20510

Dear Senator Robb:

Thank you for your letter on behalf of William H. Halprin, Vice President, S.L. Nusbaum Realty Company (Nusbaum Realty), an owner and landlord of commercial and residential properties in Virginia and North Carolina. Nusbaum Realty believes that the Federal Communications Commission (Commission) should not adopt rules in WT Docket No. 99-217 and CC Docket No. 96-98 to facilitate reasonable and nondiscriminatory access by competitive telecommunications providers to rights-of-way, buildings, rooftops, and facilities in multiple tenant environments. Nusbaum Realty believes that Commission action in this area is unnecessary because building owners are aware of the importance of telecommunications services to tenants and would not jeopardize any rent revenue stream by actions that would displease tenants. In addition, Nusbaum Realty asserts that such rules may interfere with its ability to ensure a secure environment at its properties.

The Commission sought comment on these matters in FCC 99-141, released on July 7, 1999. This item represents another step in the Commission's ongoing efforts to foster competition in local telecommunications markets pursuant to Congress' directive in the Telecommunications Act of 1996. These efforts are intended to bring the benefits of competition, choice, and advanced services to all consumers of telecommunications, including both businesses and residential customers, regardless of where they live or whether they own or rent their premises. In particular, this item addresses issues that bear specifically on the availability of facilities-based telecommunications competition to customers in multiple tenant environments, including, for example, apartment buildings, office buildings, office parks, shopping centers, and manufactured housing communities. The item also explores the effect of State and local rights-of-way and taxation policies on telecommunications competition.

The purpose of this item is to explore broadly what actions the Commission can and should take to promote facilities-based competition to the incumbent local exchange carriers (LECs). Thus, the item seeks comment on a wide range of potential Commission actions, in most instances without reaching tentative conclusions. In addition to proposing and seeking comment on obligations that would apply to incumbent LECs and other utilities under certain provisions of the Communications Act, the item neutrally seeks comment on the legal and policy

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issues raised by a possible requirement that building owners, who allow any telecommunications carrier access to facilities that they control, make comparable access available to other carriers on a nondiscriminatory basis. The item also requests comment on whether the Commission should forbid telecommunications service providers, under some or all circumstances, from entering into exclusive contracts with building owners, and abrogate any existing exclusive contracts between these parties. Furthermore, the item requests comment on whether the Commission should modify its rules governing determination of the demarcation point between facilities controlled by the telephone company and by the landowner on multiple unit premises. In addition, the item requests comment on whether the Commission should extend rules similar to those adopted under section 207 of the 1996 Act to providers of telecommunications service. The item recognizes that section 207 by its terms applies only to video programming services, but asks whether the Commission has authority to adopt similar rules prohibiting restrictions on the placement of antennas used for over-the-air telecommunications service pursuant to other provisions of the Communications Act. These issues are addressed in Nusbaum Realty's letter.

Your letter and your constituent's letter have been placed in the record of this proceeding and will be given every consideration by the Commission. Thank you for your interest in this proceeding.

Sincerely,

A handwritten signature in dark ink, appearing to read 'Jeffrey S. Steinberg', with a stylized, flowing script.

Jeffrey S. Steinberg
Deputy Chief, Commercial Wireless Division
Wireless Telecommunications Bureau

CHARLES S. ROBB
VIRGINIA

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United States Senate

WASHINGTON, DC 20510-4603

November 9, 1999

COMMITTEES
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6301

Ms. Sheryl Wilkerson
Federal Communication Commission
Room 808
1919M Street, NW
Washington, D.C. 20554

Dear Ms. Wilkerson:

I have been contacted by William H. Halprin, the Vice President of S.L. Nusbaum Reality Co., of Norfolk, Virginia, expressing concern about promotion of competitive networks in local telecommunications markets. I am enclosing a copy of the correspondence I've received.

I would appreciate it if you could review the letter and respond to the concerns he's raised. Many thanks for your consideration.

Sincerely,



Charles S. Robb

CSR/jag

Enclosure

State Office:

The Ironfronts, Suite 310
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(804) 771-2221

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Norfolk, VA 23510
(757) 441-3124

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S.L. NUSBAUM Realty Co.

1900 NationsBank Center • One Commercial Plaza • Norfolk, VA 23510 • TEL: 427-8611

August 13, 1999

Ms. Magalie Roman Salas
Secretary
Federal Communications Commission
445 12th St. SW
TW-A325
Washington, D.C. 20554

RE: Promotion of Competitive Networks in Local Telecommunications Markets.
WT Docket No. 99-217; Implementation of the Local Competition Provisions in the
Telecommunications Act of 1996, CC Docket No. 96-98

Dear Ms. Salas:

We write in response to the FCC's Notice of Proposed Rulemaking released on July 7, 1999, regarding forced access to buildings. We enclose six (6) copies of this letter, in addition to the original.

We are concerned that any action by the FCC regarding access to private property by large numbers of communications companies may inadvertently and unnecessarily adversely affect the conduct of our business and needlessly raise additional legal issues. There are several other issues in the FCC notice that also raise concerns.

Since 1906, S.L. Nusbaum Realty Co has been in the commercial and residential real estate business. We own and manage over 110 properties throughout Virginia and North Carolina which is comprised of over 9500 multi-family apartments and over 6,000,000 square feet of shopping center space.

As one of the regions leading real estate management firms, we do not believe the FCC needs to take any further action in this area because we are committed to the needs of our residents and their demands for access to telecommunications. In addition, the FCC's request for comments raises the following issues of concern to us: non-discriminatory access to private property; expansion of the scope of existing easements; location of the demarcation point; exclusive contracts; and expansion of the satellite dish rules to include non-video services.

Our firm is very aware of the importance of telecommunication services that is provided to our residents and we would not risk potential rent revenue streams by actions that would not meet their needs. In order to remain competitive in our markets, it is imperative that we maintain our properties with up-to-date services.

As private property owners, we must maintain control over who enters our buildings or potentially face liability for damages to our buildings, leased premises, facilities of other providers or for personal injury to our residents and visitors. Owners in addition, are responsible and liable for potential violations of building, health and safety codes.

We vehemently oppose the existing rule because we do not believe that Congress meant to interfere with our private property rights and our ability to manage and maintain our properties. The FCC should not expand the satellite rule to include data and other services, because the law only applies to antennas that are used to receive video programming.

In summary, we urge the FCC to carefully consider any action it may take. Thank you for your consideration of our views.

Sincerely,

A handwritten signature in black ink, appearing to be 'WHH', with a long horizontal stroke extending to the right.

William H. Halprin
Vice President

WHH/amd

cc: Senator John Warner
Senator Charles Robb
Congressman Owen Pickert
Congressman Robert Scott
Congressman Norman Sisisky